

Jennifer Baskerville

From: Jennifer Baskerville
Sent: Wednesday, January 27, 2010 12:20 PM
To: jbaskerville@qorvis.com
Subject: Buyers Beware in Turkish Occupied Northern Cyprus
Attachments: Properties.Orams.UK.Court.Appeal.Final.PressRelease.Embassy.doc

I am writing to see if you might be interested in a fascinating case in which a British couple bought land in Turkish occupied northern Cyprus, built their dream home, but now must tear it down and vacate the property – because they purchased the land from someone who didn't legally have title to it.

The story began six years ago when British couple Linda and David Orams bought land in Cyprus' northern Turkish occupied area. The problem was, the land was not for sale by its rightful owner, a Greek Cypriot, Meletis Apostolides, who had to flee his home and was displaced by the 1974 Turkish invasion.

In 2004, a court in The Republic of Cyprus ruled the land legally belonged to Mr. Apostolides. The Cypriot court had ordered the Orams to pay compensation to Apostolides, demolish the holiday home they had built in his property in the Turkish occupied village of Lapithos, halt all intervention on the said property and deliver it to its legal owner.

A British Court of Appeal ruled last week to uphold the Cypriot Court's ruling.

There are over 22,000 foreign property owners in the northern Turkish occupied area and the full impact of the ruling is still unclear. This is just one of the many problems caused by Turkey's on-going occupation of Cyprus.

Below is some background and I've attached a press release on the matter.
If you are interested, I can provide more information or set-up an interview for you.

Kind Regards,
Jennifer Baskerville
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Background:

The Republic of Cyprus has been divided since 1974, due to the Turkish invasion and on-going military occupation of 37% of its territory. A series of resolutions adopted by the UN Security Council and General Assembly, reflect the universal condemnation of Turkey's invasion and all subsequent acts of aggression against Cyprus. Turkey has ignored these resolutions and continues to occupy the island. Moreover, Turkey has yet to abide by judgments of the European Court of Human Rights for violating the fundamental rights of the Cypriots such as the right to life, liberty, security and the right to the protection of property and the prohibition of inhuman or degrading treatment – all of which are enshrined in the European Convention on Human Rights.

The two waves of the invasion by the Turkish troops, forced nearly 200,000 Greek Cypriots (nearly one-third of the Cypriot population at the time) from their homes, making them refugees in their own country. A large proportion of the properties from which the Greek Cypriot owners

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were expelled, were unlawfully distributed and are currently being used by the tens of thousands of illegal settlers from Turkey. The vast majority of the properties affected are owned by Greek Cypriots who are to this day prevented by Turkey from returning and enjoying their homes and properties.

This press release is being distributed by Qorvis Communications on behalf of the Embassy of the Republic of Cyprus. Additional information is available at the Department of Justice in Washington, DC.

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PRESS RELEASE

**Judgment of the UK Court of Appeal (England and Wales) (Civil Division)
in the Case of *Meletios Apostolides V. David Charles Orams & Linda Elizabeth Orams*
January 19, 2010**

The UK Court of Appeal (England and Wales) (Civil Division), on January 19, 2010, issued its final judgment in the case of *Meletios Apostolides v. David and Linda Orams*, relating to the property rights of Mr. Apostolides, a Greek Cypriot refugee, on land situated in the Turkish occupied areas of Cyprus. The UK Court of Appeal decision upholds the judgment of the European Court of Justice (ECJ) of April 27, 2009, on the same case, namely that a decision taken by a Republic of Cyprus Court must be recognized and executed in any EU Member State (in this case the UK) on the basis of European Union Regulation No 44/2001 (Brussels I Regulation).

The examination of the *Meletios Apostolides v. David and Linda Orams* case by the UK Court of Appeal, came about after Mr. Apostolides filed in 2004 a civil lawsuit at a Republic of Cyprus Court against Mr. and Mrs. Orams, a British couple, for illegally occupying and using his property in the occupied areas of Cyprus. In its judgment, the Nicosia District Court in Cyprus found Mr. and Mrs. Orams liable for trespass on the property of Mr. Apostolides and ordered them to: (a) demolish the villa and other structures erected on the property, (b) surrender immediately to Mr. Apostolides, who is the rightful owner of the property, free possession of the land, (c) pay Mr. Apostolides various sums for damages as well as for rent had he been able to use his property since the Orams have been in possession of his property, (d) refrain from continuing with the unlawful intervention on the land, whether personally or through their agents, and (e) pay various sums in respect of the costs and expenses of the proceedings.

Pursuant to European Union Regulation No 44/2001 (Brussels I Regulation), Mr. Apostolides sought the registration and enforcement of the Cyprus judgment in the UK High Court of Justice. The Orams appealed against such registration and enforcement of the Cyprus judgment in the United Kingdom and in its decision of September 2006, the British High Court accepted the Orams' appeal on technical points even though it reaffirmed the property rights of Mr. Apostolides in relation to the property in question. Subsequently, Mr. Apostolides lodged an Appeal against the judgment of the UK High Court and in June 2007 the UK Court of Appeal (England and Wales) (Civil Division) decided to ask the interpretative intervention of the European Court of Justice (ECJ) for a number of issues relating to the case.

In its judgment on April 27, 2009, the ECJ ruled that a judgment of a Court in the Republic of Cyprus must be recognized and enforced by all other EU Member States even if it concerns land situated in the Turkish occupied areas of Cyprus. The ECJ ruling stated that the suspension of the application of European Union law in the areas where the Government of the Republic of Cyprus does not exercise effective control and the fact that the judgment of a Cypriot Court cannot, as a practical matter, be enforced in the occupied areas, do not preclude the application of European Union Regulation No 44/2001 (Brussels I Regulation) and thus the recognition and the enforcement of the Cypriot Court judgments in another EU Member State. In this landmark

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judgment, the ECJ also reaffirmed the territorial integrity of the Republic of Cyprus and the competence of the Republic's authorities over the whole territory of Cyprus and reasserted once again the undeniable right of all Greek Cypriot dispossessed owners to their properties in the occupied areas, in spite of the illegal Turkish occupation since 1974 and the fact that the Republic of Cyprus does not exercise effective control in those areas.

The decision of the UK Court of Appeal, on January 19, 2010, represents the last and final part of the *Meletios Apostolides v. David and Linda Orams case*, as the UK Court of Appeal had to issue its final ruling on the substance of the Appeal which was lodged by Mr. Apostolides in June 2007. Respecting the ECJ judgment of April 27, 2009, in its totality, the UK Court of Appeal dismissed the defendants' claims regarding the impartiality of the ECJ and their suggestions that the case could jeopardize the efforts for reaching a comprehensive settlement of the Cyprus problem and upheld the aforementioned decision of the ECJ.

The decision of the UK Court of Appeal, which is final and cannot be appealed against, is of critical importance, *inter alia*, for the following reasons:

- It is applicable throughout Europe and it applies to all European citizens. Consequently, it is a decision that binds all Member States and the citizens of the European Union, as judgments of Courts of the Republic of Cyprus on matters related to property in the occupied areas of Cyprus can be registered and executed on the basis of European Union Regulation No 44/2001 in the EU Member States where the usurpers of the properties reside.
- It further safeguards the protection of the property rights of all Greek Cypriot dispossessed owners, as it reaffirms their undeniable right to their properties in the occupied areas, in spite of the illegal Turkish occupation since 1974 and the fact that the Republic of Cyprus does not exercise effective control in those areas. It also reaffirms the illegality of the exploitation of the Greek Cypriot owned properties in the occupied areas of Cyprus and can constitute a significant element in discouraging further unlawful exploitation of these properties.
- It acknowledges that the Courts of the Republic of Cyprus have exclusive jurisdiction to decide on cases regarding immovable property in the Turkish occupied areas of Cyprus and that the British authorities, and by extension the authorities of EU Member States, have an obligation to acknowledge and implement those decisions in their respective countries. Greek Cypriot dispossessed owners now have the opportunity to defend their rights before the competent Courts of the Republic of Cyprus and then use European Union Regulation No 44/2001 to seek execution of the Cypriot Court judgments related to property in the occupied areas in EU Member States.
- It reaffirms that - irrespective of the occupation and the inability of the Government of the Republic of Cyprus to exercise control over the occupied areas - the Laws and the Constitution of the Republic of Cyprus still apply and need to be respected by countries as well as individuals.
- It strengthens and reaffirms the legitimacy of the principled positions by the President of the Republic of Cyprus at the negotiating table on the property issue, namely that the legal owners of the properties should be given the right to decide freely and voluntarily how they would like to handle their properties in a future solution.

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